IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3298 OF 2007

Tariq Ayub Ansari and ors. ..Applicants.

Vs.

The State of Maharashtra ..Respondent

Mr. Sudeep Pasbola for applicants.
Mr. D.P. Adsule, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : October 17, 2007.

P.C.:

1. This is an application filed under Section 407 of Cr.P.C. for transfer of Sessions Case No. 1090 of 1997 from the Sessions Court at Sewree to the Additional Sessions Judge Shri D.R. Mahajan, presently at Dindoshi. For the same prayer the applicants have filed Misc. Application No. 576 2007 under Section 409 of Cr.P.C. before the learned Principal Judge, Sessions Court, Gr. Mumbai and the same application was partly allowed on 21/9/2007 thereby directing the Additional Sessions Judge Shri Abhay Thipsay to assign Sessions Case No. 1090 of 1997 to any other Additional Sessions Judge presiding

over Sewree Sessions Court. The applicants are not satisfied by the said order dated 21/9/2007 passed by the learned Principal Judge, Sessions Court, Gr. Mumbai.

2. The applicants are the accused in Sessions Case No. 1090 of 1997 and they are facing trial for the offences punishable under Sections 147 to 149, 302, 324 and 323 read with Section 34 of IPC. They contend that the trial of the said case had commenced on 21/3/2005 or thereabout before the 8th Ad-hoc Additional Sessions Court which was presided over by Shri D.P. Mhatre. In all 18 witnesses were examined till 12/4/2007 but thereafter Shri Mhatre was transferred and in his place Shri D.R. Mahajan came to preside over the 8th Ad-hoc Additional Sessions Court. Before Shri Mahajan two more witnesses were examined and thereafter the prosecution closed its evidence by filing pursis. The statement of the accused under Section 313 of Cr.P.C. was recorded on 6/8/2007 and written arguments were submitted on 21/8/2007. The matter was thereafter adjourned to 30/8/2007 for arguments on behalf of the defence. The arguments on behalf of the accused no.7 were concluded

on 30/8/2007 and on 1/9/2007 the arguments on behalf of accused nos. 8 to 10 were advanced. On 11/9/2007 arguments on behalf of accused nos. 1 to 6 and 11 were advanced and the case was adjourned to 24/9/2007. However, in the meanwhile Shri D.R. Mahajan came to be transferred to the newly created Sessions Division at Dindoshi and the 8th Ad-hoc Additional Sessions Court remained vacant.

3. The Registrar (Judicial) on a specific query submitted before me that though Shri D.R. Mahajan is now presiding over the Mumbai City Civil and Sessions Court at Dindoshi, he also has the charge of sessions court and, therefore, he can deal with the sessions case assigned to him. Having regards to the fact that the arguments are almost completed before Shri Mahajan, it would be appropriate and the interest of justice would be served better if the Sessions Case No. 1090 of 1997 is transferred to the Sessions Court at Dindoshi presided over by Shri D.R. Mahajan and this transfer would also help in expeditious conclusion of the trial in Sessions Case No. 1090 of 1997. The learned APP has not opposed this transfer and, on the contrary, agreed that the interest of

justice would be better served if the case is transferred and assigned to Shri D.R. Mahajan.

4. Hence, the application is allowed and it is directed that Sessions Case No. 1090 of 1997, presently pending before the Sewree Sessions Court, be transferred forthwith to the Dindoshi Sessions Court and it be assigned to Shri D.R. Mahajan.

5. Writ to go forthwith to the Sewree Sessions Court as well as Dindoshi Sessions Court.

(B.H. Marlapalle,J.)